

Environmental Protection Agency

§ 272.2201

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[71 FR 11534, Mar. 8, 2006]

§§ 272.2102–272.2149 [Reserved]

Subpart RR—Tennessee

§§ 272.2150–272.2199 [Reserved]

Subpart SS—Texas

§ 272.2200 [Reserved]

§ 272.2201 Texas State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Texas final authorization for the following elements as submitted to EPA in Texas' Base program application for final authorization which was approved by EPA effective on December 26, 1984. Subsequent program revision applications were approved effective on October 4, 1985, February 17, 1987, March 15, 1990, July 23, 1990, October 21, 1991, December 4, 1992, June 27, 1994, November 26, 1997, December 3, 1997, October 18, 1999, November 15, 1999, September 11, 2000, June 14, 2005, and December 29, 2008.

(b) The State of Texas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State statutes and regulations.* (1) The Texas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by

the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Texas regulations that are incorporated by reference in this paragraph are available from West Publishing Company, 620 Opperman Drive, P.O. Box 64526, Saint Paul, MN 55164-0526; Phone: 1-800-328-4880; Web site: <http://west.thomson.com>.

(i) The Binder entitled "EPA Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated June 2005

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2001); Chapter 361, The Texas Solid Waste Disposal Act, sections 361.002, 361.016, 361.017, 361.018, 361.024(e), 361.032, 361.033, 361.036, 361.037(a), 361.061, 361.063, 361.064, 361.066(b), 361.067, 361.068(a), 361.069 first two sentences, 361.078, 361.079, 361.080(a), 361.082(b), 361.082(c) (except second sentence), 361.082(e), 361.083, 361.084 (except 361.084(a) and (c)), 361.084(c) (except the phrase "or evidence of * * * waste management"), 361.085, 361.088(a) and (b), 361.088(c) (except the phrase "Except as provided by Subsection (e)"), 361.089, 361.090, 361.095(b)–(f), 361.096, 361.097, 361.098(a) (except the phrase "Except as provided in Subsections (b) and (c),"), 361.099(a), 361.100, 361.101, 361.102(a) (except the phrase "Except as provided by Subsections (b) and (c)"), 361.103 through 361.108, 361.109(a), 361.301, 361.321(a) and (b), 361.321(c) (except the phrase "Except as provided by Section 361.322(a)"), 361.321(d), and 361.321(e) (except the phrase "Except as provided by Section 361.322(e)"); Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.0025(b) and (c), 371.024(a), 371.024(c) and (d), 371.026(a) and (b), 371.028, and 371.043(b).

(ii) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2002 Supplement), effective September 1, 2001: Chapter 361, The Texas Solid Waste Disposal Act, sections 361.082(h), 361.084(a), 361.088(g), and 361.114.

(iii) Texas Water Code (TWC), Texas Codes Annotated (Vernon, 2000), effective September 1, 1999, as amended: Chapter 5, sections 5.102 through 5.105, 5.112, 5.351, and 5.501; Chapter 7, sections 7.051(a), 7.053 through 7.062, 7.064 through 7.069, 7.075, 7.101, 7.102, 7.104, 7.107, 7.110, 7.162, 7.163, 7.176, 7.187, 7.189, 7.190, 7.252(1), 7.351, 7.353; Chapter 26, section 26.011; and Chapter 27, sections 27.018 and 27.019.

(iv) Texas Water Code (TWC), Texas Codes Annotated (Vernon, 2002), effective September 1, 2001, as amended: Chapter 5, section 5.177; Chapter 7, sections 7.031, 7.052(a), and 7.102.

(v) Texas Government Code (Vernon, 1998), section 311.027, effective May 11, 1993.

(vi) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1994, as amended, effective through January 1, 1994: Chapter 305, sections 305.91 through 305.93, 305.98, and 305.99.

(vii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997: Chapter 281, sections 281.17(d)–(f); Chapter 305, sections 305.29(b)–(d), 305.94 and 305.95, 305.97, 305.100, 305.101 (except 305.101(c)), 305.102, 305.103, and 305.105.

(viii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2002, as amended, effective through December 31, 2001: Chapter 39, sections 39.13 (except (10)), 39.413 (except (10)); Chapter 50, sections 50.13, 50.19, 50.39, 50.113, 50.119, and 50.139; Chapter 55, sections 55.27 (except (b)), 55.201 (except as applicable to contested case hearings), and 55.211 (except as applicable to contested case hearings); Chapter 70, section 70.10; Chapter 281, sections 281.1 (except the clause “except as provided by * * * Prioritization Process”), 281.2 introductory paragraph, 281.2(4), 281.3(a) and (b), 281.5 (except the clause “Except as provided by * * * Discharge Permits”) and the phrase “radioactive material”), 281.18(a) (except for the sentence “For applications for radioactive * * * within 30 days.”), 281.19(a) (except the last sentence), 281.19(b) (except the phrase “Except as provided in subsection (c) of this section.”), 281.20, 281.21(a) (except the phrase “and the Texas Radiation Control Act * * * Chapter 401.”), 281.21(b), 281.21(c) (ex-

cept the phrase “radioactive materials,” in 281.21(c)(2)), 281.21(d) introductory paragraph (except the phrase “and the Texas Radiation Control Act * * * Chapter 401.” and the phrase “For applications for minor amendments * * * summary is not necessary.”), 281.21(d)(1)–(6) (except the phrase “and, for radioactive * * * radiation safety” in 281.21(d)(3)), 281.22(a) (except the phrase “For applications for radioactive * * * to deny the license.”), 281.22(b) (except the phrase “or an injection well,” in the first sentence and the phrase “For underground injection wells * * * the same facility or activity.”), 281.23(a), 281.24; Chapter 305, sections, 305.64(d) and (f), 305.66(c), 305.66(e) (except for the last sentence), 305.66(f)–(1), 305.123 (except the phrase “and 401 * * * regulation”), 305.125(1) and (3), 305.125(20), 305.127(1)(B)(i), 305.127(4)(A) and (C), 305.127(6), 305.401(a), 305.401(b) (except the text “§39.3 of this title (relating to Purpose) * * * §55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment”), 305.401(d)–(h); and Chapter 335, sections 335.2(b), 335.43(b), 335.206, 335.391 through 335.393.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon 2001): Chapter 361, The Texas Solid Waste Disposal Act, sections 361.131 through 140; Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.021, 371.022, 371.024(e), 371.0245, 371.0246, 371.025, and 371.026(c).

(ii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2002, as amended, effective through December 31, 2001: Chapter 305, sections 305.53, 305.64(b)(4), 305.127(1)(G); Chapter 335, sections 335.321 through 335.332, and Appendices I and II.

(4)(i) *Unauthorized State Amendments.* The following authorized provisions of the Texas regulations include amendments published in the Texas Register that are not approved by EPA. Such unauthorized amendments are not part of the State’s authorized program and

Environmental Protection Agency

§ 272.2201

are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Texas hazardous waste regulations incorporated by reference at paragraph (c)(1)(i) of this section,

EPA will enforce the State provisions that are actually authorized by EPA. The effective dates of the State's authorized provisions are listed in the following Table.

State provision	Effective date of authorized provision	Unauthorized State Amendments	
		Texas register reference	Effective date
335.2(c)	11/7/91	18 TexReg 2799	5/12/93
		18 TexReg 8218	11/23/93
35.6(a)	7/29/92	18 TexReg 2799	5/12/93
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
335.6(c) introductory paragraph	7/29/92	17 TexReg 8010	
		20 TexReg 2709	11/27/92
		20 TexReg 3722	4/24/95
		21 Tex Reg 1425	5/30/95
		21 TexReg 2400	3/01/96
		22 TexReg 12060	3/06/96
		23 TexReg 10878	12/15/97
			10/19/98
335.6(g)	7/29/92	18 TexReg 3814	6/28/93
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
335.10(b)(22)	7/27/88	17 TexReg 8010	11/27/92
335.24(b) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
335.24(c) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
335.41(c)	9/1/86	18 TexReg 8218	11/23/93
335.45(b)	9/1/86	17 TexReg 5017	7/29/92
335.204(a)(1)	5/28/86	16 TexReg 6065	11/07/91
335.204(b)(1)	5/28/86	16 TexReg 6065	11/07/91
335.204(b)(6)	5/28/86	16 TexReg 6065	11/07/91
335.204(c)(1)	5/28/86	16 TexReg 6065	11/07/91
335.204(d)(1)	5/28/86	16 TexReg 6065	11/07/91
335.204(e)(6)	5/28/86	16 TexReg 6065	11/07/91

(ii) The actual State regulatory text authorized by EPA (i.e., without the unauthorized amendments) is available as a separate document, *Addendum to the EPA-Approved Texas Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, June, 2005*. Copies of the document can be obtained from U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202.

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region VI and the State of Texas, signed by the Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) on April 26, 2000, and by the EPA Regional Administrator on June 14, 2000, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority*. "Attorney General's Statement for Final Authorization", signed by the Attorney

General of Texas on May 22, 1984 and revisions, supplements, and addenda to that Statement dated November 21, 1986, July 21, 1988, December 4, 1989, April 11, 1990, July 31, 1991, February 25, 1992, November 30, 1992, March 8, 1993, January 7, 1994, August 9, 1996, October 16, 1996, as amended February 7, 1997, March 11, 1997, January 5, 1999, November 2, 1999, and March 1, 2002 are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description*. The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[73 FR 64257, Oct. 29, 2008]